

IC 23-17-13

Chapter 13. Standards of Conduct for Directors

IC 23-17-13-1

Duties; reliance on statements of and information given by others; conditions for liability; director not trustee

Sec. 1. (a) A director shall, based on facts then known to the director, discharge duties as a director, including the director's duties as a member of a committee, as follows:

- (1) In good faith.
- (2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances.
- (3) In a manner the director reasonably believes to be in the best interests of the corporation.

(b) In discharging the director's duties, a director may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by one (1) of the following:

- (1) An officer or employee of the corporation whom the director reasonably believes to be reliable and competent in the matters presented.
- (2) Legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence.
- (3) A committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.
- (4) In the case of religious corporations, religious authorities and ministers, priests, rabbis, or other persons whose position or duties in the religious organization the director believes justify reliance and confidence and whom the director believes to be reliable and competent in the matters presented.

(c) A director is not acting in good faith if the director has knowledge concerning a matter in question that makes reliance otherwise permitted by subsection (b) unwarranted.

(d) A director is not liable for an action taken as a director, or failure to take an action, unless the following conditions exist:

- (1) The director has breached or failed to perform the duties of the director's office in compliance with this section.
- (2) The breach or failure to perform constitutes willful misconduct or recklessness.

(e) A director is not considered to be a trustee with respect to a corporation or with respect to any property held or administered by the corporation, including property that may be subject to restrictions imposed by the donor or transferor of the property.

As added by P.L.179-1991, SEC.1.

IC 23-17-13-2

Contracts and transactions in which director has financial interest

Sec. 2. A contract or other transaction between a corporation and

a director of the corporation or any other corporation, firm, association, or entity in which a director of the corporation is a director or an officer or is financially interested, may not be either void or voidable because of this relationship or interest or because the director is present at the meeting of the board of directors or a committee of the board of directors that authorizes, approves, or ratifies the contract or transaction or because the director's votes are counted for such purposes if:

- (1) the fact of the relationship or interest is disclosed or known to the board of directors or committee that authorizes, approves, or ratifies the contract or transaction by a vote or consent sufficient for the purpose without counting the votes or consents of the interested director;
- (2) the fact of the relationship or interest is disclosed or known to the members entitled to vote and the members authorize, approve, or ratify the contract or transaction by vote or written consent; or
- (3) the contract or transaction is fair and reasonable to the corporation.

Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors or a committee of the board of directors that authorizes, approves, or ratifies the contract or transaction.

As added by P.L.179-1991, SEC.1.

IC 23-17-13-3

Loans to and guarantees of obligations of directors or officers

Sec. 3. (a) A corporation may not:

- (1) lend money to; or
- (2) guarantee the obligation of;

a director or an officer of the corporation.

(b) A loan or guaranty that is made in violation of this section does not affect the borrower's liability on the loan.

As added by P.L.179-1991, SEC.1.

IC 23-17-13-4

Unlawful distributions; liability

Sec. 4. (a) Subject to section 1(d) of this chapter, a director who votes for or assents to a distribution made in violation of this article or articles of incorporation is personally liable to the corporation for the amount of the distribution that exceeds the amount that could have been distributed without violating this article or articles of incorporation.

(b) A director who is held liable for an unlawful distribution under subsection (a) is entitled to contribution from the following:

- (1) Every other director who voted for or assented to the distribution, subject to section 1(d) of this chapter.
- (2) Each person who received an unlawful distribution for the amount of the distribution accepted whether or not the person receiving the distribution knew the distribution was made in

violation of this article, articles of incorporation, or the bylaws.
As added by P.L.179-1991, SEC.1.